IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIRST DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR. JUSTICE C.V.RAMULU

WRIT PETITION NO : 30950 of 1998

Between:

D.V.Jaganmohan Rao, S/o D.V.Ramarao, working as Inchare Principal, Vijayanagar College of Commerce, Vijayanagar Colony, Hyderabad.

PETITIONER

AND

1 The Vijayanagar College of Commerce, Rep by its Secretary & Correspondent, Vijayanagar Colony, Hyderabad.
2 The Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.
3 The State of Andhra Pradesh, Rep by its Secretary, Education Department, Secretariat, Hyderabad.
4 R.Vasudeva Reddy, Lecturer in Commerce, Vijayanagar College of Commerce, Vijayanagar Colony, Hyderabad.

RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction especially one in the nature of Mandamus: i) declaring the impugned proceeding No.VNCC/11-2/98, dt.28.10.98 issued by the 1st respondent as illegal, arbitrary and without jurisdiction and is liable to be set aside; ii) direct the respondents to treat the petitioner as Senior to the 4th respondent and grant all consequential benefits iii) to grant such other relief or relies as Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner : MR.V.JOGAYYA SARMA

Counsel for the Respondent No.1 : MR.J.VENKATESWARA REDDY

Counsel for the Respondents 2 and 3: GP FOR HIGHER EDUCATION.

Counsel for the Respondent No.4 : MR. V.TULASI REDDI.

The Court made the following :

ORDER:

This writ petition is filed seeking a mandamus declaring the impugned proceedings No.VNCC/11-2/98, dated 28-10-1998 of the 1st respondent as arbitrary and illegal and consequently direct the 1st respondent to treat the petitioner as senior to the 4th respondent and to grant all consequential benefits.

Since the facts are not in dispute, there is no necessity of going into all the details. The only question that falls for consideration is when an employee is selected and merit list is prepared, whether the seniority has to be counted on the basis of the merit list or on the basis of the date on which he joined into service. In this regard, there is no necessity of going into any other details requiring discussion. It is well settled principle as enunciated by the Supreme Court as reported in CHAIRMAN, PURI GRAMYA BANK AND ANOTHER V. ANANDA CHANDRA DAS AND OTHERS () wherein it was held as follows:

> "It is settled law that if more than one are selected, the seniority is as per ranking of the direct recruits subject to the adjustment of the candidates selected on applying the rule of reservation and the roster. By mere fortuitous chance of reporting to duty earlier would not alter the ranking given by the Selection Board and the arranged one as per roster. The High Court is, therefore, wholly wrong in its conclusion that the seniority shall be determined on the basis of the joining reports given by the candidates selected for appointment by direct recruitment and length of service on its basis. The view, therefore, is wrong."

In view of the above, I am of the opinion that the order impugned passed by the 1st respondent does not suffer from any illegality or irregularity. Admittedly, the respondents have taken a decision on the basis of the principle that employees' seniority is maintained as per the merit list prepared for the purpose of appointment in that particular batch. Merely because a person joining one or two days prior to the other meritorious person does not alter his seniority in the selection list. Admittedly, in this case, no seniority list has been prepared by the respondents at any point of time. Further, there is no dispute that the respondent was shown above the petitioner in the merit list at the time of selection and appointment.

The learned counsel for the petitioner tried to impress upon the Court by showing certain documents here and there where the names of the petitioner as well as the 4th respondent were mentioned to show that 4th respondent's joining duty

was later to the petitioner. This does not alter the situation. Nowhere in the entire document furnished by the learned counsel for the petitioner, the rights of the parties decided by any competent authority as to the seniority. The impugned order does not suffer from any illegality or irregularity requiring any interference by this Court under Article 226 of Constitution of India.

Accordingly, the writ petition is devoid of merits and the same is dismissed. No order as to costs.

_____

Justice C.V.RAMULU

Date : 21-07-2005

Dvs

-

-

-

-

-

-

-

-

-

-

Copies to:

1 The Secretary and correspondent, The Vijayanagar College of Commerce, Vijayanagar Colony, Hyderabad.
2 The Commissioner of Collegiate Education, Andhra Pradesh, Hyderabad.

3 The Secretary, Education Department, The State of Andhra Pradesh, Secretariat, Hyderabad.
4. Two CCs. to the GP for Higher Education, High Court Buildings, A.P.Hyderabad.

5. Two CD copies.

6. Two CCs to Mr. V.Tulasi Reddy,Advocate.

HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 30950 of 1998

Date : 21-07-2005